

Exhibit “J”

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

KAREN PRIDGEN, Individually and as : JULY TERM,
Personal Representative of the Estate : 2001
of LENDON N. PRIDGEN, Deceased; and as :
Personal Representative of the Estate :
of ANTHONY W. CIPPARONE, Deceased, :
DENISE DIGGEN, Individually and as :
Personal Representative of the :
Estate of DANIEL DIGGEN, Deceased, :
and TYLER JOHNSON :
- vs - Plaintiffs :
LYCOMING ENGINES, :
TEXTRON, INC., and AVCO CORPORATION : NOS. 3838 &
Defendants : 4008

April 6, 2010
Courtroom 630, City Hall
Philadelphia, Pennsylvania

BEFORE: HONORABLE PATRICIA MC INERNEY, J.
and a Jury

AFTERNOON SESSION

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THE COURT: Okay. Please be seated.

Were you able to work out a stipulation?

MR. STOLL: I believe so, but I'm only
"butting" because we just finalized it right
now and we don't have it written down yet.

THE COURT: All right.

MS. FREY: Can I put something on the
record before we even get to that part?

Defendants would like to put on the
record our objection to the verdict and request
a judgment notwithstanding the verdict on the
basis that the verdict is against the weight of
the evidence. As we stated in our nonsuit --

THE COURT: Hold on -- okay. Go ahead.

MS. FREY: -- in our nonsuit and
Directed Verdict Motions there was no evidence
presented during trial of a knowing
misrepresentation, knowing concealment or
knowing withholding of information from the FAA
that is causally related to the August 1st,
1999, accident. Since plaintiffs were not --
did not present evidence of that, the case
should not have gone any further and the jury
should not have considered liability.

APPEARANCES:

THE WOLK LAW FIRM
BY: ARTHUR ALAN WOLK, ESQUIRE
BRAD STOLL, ESQUIRE
1710-12 Locust street
Philadelphia, PA 19103
Attorneys for Plaintiffs

COZEN O'CONNOR
BY: JAMES E. ROBINSON, ESQUIRE
SARA FREY, ESQUIRE
1900 Market Street
Philadelphia, PA 19103-3508
Attorneys for Defendants
Textron Lycoming Reciprocating
Engine Division and AVCO Corporation

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To the extent there was, under
Pennsylvania tort law under strict liability
law we cannot be held liable because we did not
manufacture the part and, therefore, we object
on that basis as well. We also object on the
basis there was a substantial change to the
product, which prohibits liability against us.

Further object to the issue of punitive
damages going to the jury on the basis that
there was no evidence of malicious conduct,
ill-will, evil motive.

We also object on the grounds that the
verdict is excessive and against the weight of
the evidence, and ask that the verdict be set
aside. And we also preserve the right to fully
brief these issues during Post-trial Motions.

THE COURT: Okay.

MR. STOLL: I do incorporate all of the
arguments I made at the directed verdict and
there was another -- at the close of all of the
evidence. There has been sufficient evidence
for both, to find defect, negligence, as well
as punitive damages, knowing misrepresentation.
Without repeating myself as to what

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1 I've previously said throughout this case,
2 nothing has changed at this point and the
3 amounts are within the fair scope of what a
4 reasonable jury could award in this case, that
5 nothing should be set aside.

6 THE COURT: Okay. All right. I'll
7 note your Motion and hold it under advisement
8 pending your Post-trial Motions.

9 I would like to go over the charge that
10 I'm going to give on the punitives. I'm just
11 going to slightly modify 14.00 and say to the
12 jurors, given your answer to Question 12 on the
13 verdict slip, you may award punitive damages in
14 addition to your award of compensatory damages
15 in order to punish the defendant for its
16 conduct and to deter the defendant and others
17 from committing similar acts. A defendant's
18 conduct is outrageous when it is malicious,
19 wanton, willful or oppressive or shows reckless
20 indifference to the interest of others.

21 Then I'm going to go on to 14.02. If
22 you decide that the plaintiffs are entitled to
23 an award of punitive damages, it is your job to
24 fix the amount of such damages. In doing so
25

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1 you may consider any or all of the following
2 factors: one, the character of the defendant's
3 act; two, the nature and extent of the harm to
4 the plaintiffs that the defendant caused or
5 intended to cause; three, the wealth of the
6 defendant insofar as it is relevant in fixing
7 an amount that will punish it and deter it and
8 others from like conduct in the future. The
9 amount of damages awarded must not be the
10 result of passion or prejudice against the
11 defendant on the part of the jury. The sole
12 purpose of punitive damages is to punish the
13 defendant's outrageous conduct and to deter the
14 defendant and others from similar acts.

15 And then is there an objection to 3 or
16 4?

17 MR. WOLK: No, that's fine.

18 THE COURT: Because I'm inclined to
19 give 3 and 4 of the supplemental charges.

20 MS. FREY: I'm sorry?

21 THE COURT: Then I would give
22 supplemental charge No. 3, which I guess I
23 don't have to read the whole thing, and then
24 supplemental charge No. 4.
25

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1 MS. FREY: You will give those? If I
2 could just note an objection to the -- in the
3 standard charge that you just read.

4 THE COURT: Which one?

5 MS. FREY: 14 and 14.02, it is the same
6 issue, the phrase "and others," to deter the
7 defendant and others. We object to including
8 "and others." It's unconstitutional to punish
9 us to deter others.

10 THE COURT: Yes.

11 MS. FREY: I think it was in 14.0 and
12 then it is also in No. 3 under 14.02 --

13 THE COURT: Yes. Okay.

14 MS. FREY: -- at the bottom.

15 THE COURT: Okay. Done.

16 MR. STOLL: The only point I would make
17 on that is that the law is that you can't
18 punish -- well, punitive damages can deter the
19 defendant and deter others. It is an
20 appropriate recitation of the law.

21 THE COURT: Right. But the way it read
22 it sounds like --

23 MR. STOLL: Okay. Just note the
24 objection.
25

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1 THE COURT: Okay. Now, you need time
2 to work out the stipulation?

3 MR. STOLL: Well, did we agree -- may I
4 address counsel?

5 THE COURT: Yes.

6 MR. STOLL: Did we agree on the first
7 part?

8 MS. FREY: Yes.

9 MR. STOLL: We agreed on the first part
10 and then we also agree that the information
11 being submitted is sufficient for purposes of
12 establishing the standard of showing of
13 defendant's wealth for purposes of punitive
14 damages.

15 MS. FREY: Yes, as long as -- yes.

16 MR. STOLL: Okay.

17 MS. FREY: As long as we preserve our
18 rights.

19 MR. STOLL: We do have a stipulation.
20 Would you like me to read it, Your Honor, or
21 hand you a copy?

22 THE COURT: Why don't you hand me a
23 copy?

24 MR. STOLL: Okay. Do you mind it
25

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1 handwritten?
 2
 3 THE COURT: No. We'll make a copy.
 4 MR. STOLL: Okay.
 5 THE COURT: Let me see if I can read it
 6 and if I can read it that way, we'll just use
 7 it that way.
 8 MR. STOLL: It is the top one which
 9 says "read to the jury."
 10 MR. WOLK: The second one is critical.
 11 (Discussion off the record between
 12 plaintiffs' counsel)
 13 MR. WOLK: We want to make sure we get
 14 on this record -- after this is done I will
 15 state it, Your Honor.
 16 THE COURT: Wait, wait one second. Let
 17 me just read it first.
 18 -----
 19 (Pause in proceedings)
 20 -----
 21 THE COURT: Okay.
 22 MR. WOLK: Your Honor, I just want to
 23 make clear on this record that I won't agree to
 24 the first stipulation unless the second part --
 25 they want to preserve their right to argue the

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1 constitutionality or un-constitutionality of an
 2 award of punitive damages. Got no problem with
 3 that. But I want them to agree on the record
 4 that the information that they have supplied us
 5 and that will be supplied to the jury, which is
 6 solely the net worth of Avco Corporation, is
 7 all from an evidentiary standpoint is required
 8 under the law to allow a jury to award punitive
 9 damages. Because if not, I've got a witness
 10 here.
 11
 12 THE COURT: Okay. All right.
 13 MS. FREY: Yes, we talked about that.
 14 But, I mean, there's other factors besides
 15 wealth, including the character of the
 16 defendants.
 17 MR. WOLK: I got all that.
 18 MS. FREY: Under Pennsylvania law
 19 wealth is permitted to be considered by the
 20 jury. That's the law. If we're talking about
 21 wealth, the valid -- we will stipulate the
 22 valid measure of wealth is net worth and that's
 23 sufficient, yes.
 24 MR. WOLK: All right. That's where we
 25 are, and I don't want to get into an argument

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1 on appeal.
 2
 3 THE COURT: He wants to make sure that
 4 you're not going to try to raise on appeal that
 5 just telling the jury the net worth was not
 6 sufficient to support an award for punitive
 7 damages, that there should have been expert
 8 testimony.
 9 MS. FREY: No, no, I'm not going to --
 10 no. I'm not going to object there should have
 11 been expert testimony or there should have
 12 been --
 13 MR. WOLK: Other information.
 14 MS. FREY: -- other information, no.
 15 Net worth is the valid measure of wealth.
 16 THE COURT: Your complaint should be
 17 that the jury should never have gotten the
 18 issue of punitive damages, but that the
 19 information they got upon which to base an
 20 award you're agreeing to and that was
 21 sufficient under the law.
 22 MS. FREY: Under the law, yes. I still
 23 have objections to the constitutionality of
 24 punitive damages.
 25 THE COURT: Yes.

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1 MS. FREY: But we're not going there
 2 right now.
 3 MR. WOLK: Okay.
 4 THE COURT: Okay. Now, when the jurors
 5 come back out again, I will say to them that
 6 they have one more task and that that task is
 7 to determine whether or not they choose to
 8 award punitive damages to the plaintiffs
 9 against the defendant, and I'll read to them
 10 the stipulation as to the net worth and then --
 11 well, actually, you know what? Maybe I should
 12 read the charges first and then --
 13 MR. WOLK: Do you want to include it in
 14 the charge, Judge?
 15 THE COURT: And then read the net
 16 worth.
 17 MS. FREY: You could include it after
 18 you say the wealth.
 19 THE COURT: Okay. Okay. I'll do that.
 20 I'll insert it there. I'll insert the
 21 stipulation there.
 22 Okay. Are they all here?
 23 THE COURT CRIER: Yes, Judge.
 24 THE COURT: Okay.
 25

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THE COURT CRIER: I'll bring them out.

(Pause in proceedings)

MR. STOLL: Can I see the stipulation one more time, Your Honor?

THE COURT: Oh, I'm sorry.

THE COURT CRIER: Make a copy?

THE COURT: Yes. Why don't you make three copies.

MR. STOLL: I just want to make sure the comma wasn't changed to a decimal point or anything like that along the way. Off the record.

MR. WOLK: Or an exclamation.

MS. FREY: I'm sure you would jump up and correct it.

THE COURT: What was the amount so I --

MR. STOLL: \$641,800,000.

THE COURT: Okay.

(Pause in proceedings)

THE COURT CRIER: All rise, jurors

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coming out.

(Whereupon the jury entered the courtroom at 1:10 p.m.)

THE COURT CRIER: Everyone is present, Your Honor.

THE COURT: All right. Please be seated.

All right. Good afternoon, members of the jury.

THE JURY: Good afternoon.

THE COURT: All right. Members of the jury, given your answer to Question 12 on the verdict slip, you may award punitive damages in addition to your award of compensatory damages in order to punish the defendant for its conduct and to deter the defendant from committing similar acts. A defendant's conduct is outrageous when it is malicious, wanton, willful or oppressive or shows reckless indifference to the interests of others.

If you decide that the plaintiffs are entitled to an award of punitive damages, it is your job to affix the amount of such damages. In doing so you may consider any or all of the

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following factors: one, character of the defendant's act; two, the nature and extent of the harm to the plaintiffs that the defendant caused or intended to cause; three, the wealth of the defendant insofar as it is relevant in fixing an amount that will punish it and deter it from like conduct in the future. And it has been stipulated among the parties that the balance sheet provided by Avco Corporation and Avco Corporation on behalf of its Lycoming Engines Division, verified April 6th, 2010, shows the defendant's net worth to be \$641,800,000.

The amount of punitive damages awarded must not be the result of passion or prejudice against the defendant on the part of the jury. The sole purpose of punitive damages is to punish the defendant's outrageous conduct and to deter the defendant from similar acts. It should be presumed that a plaintiff has been made whole for his or her injuries by compensatory damages, so punitive damages should only be awarded if the defendant's culpability, after having paid compensatory

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damages, is so reprehensible as to warrant the imposition of further sanctions to achieve punishment or deterrence. The measure of punishment must be both reasonable and proportionate to the amount of harm to the plaintiff and to the general damages recovered.

I have an additional verdict sheet.

This time I'm only going to give you one copy that your foreperson will be responsible for filling out, and it just has one question on it: Please enter the amount of punitive damages you have found against Lycoming Engines, with a signature line and a date line for the foreperson.

I would give you the same instructions that I gave you on your previous deliberations, that you must listen to the opinions of each other with mature consideration and that 10 out of the 11 of you will have to agree on a verdict to have a verdict on this question in the case.

And with that I will send you back to begin your final phase of deliberations.

THE COURT CRIER: All rise.

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(Whereupon the jury exited the courtroom at 1:17 p.m. to begin deliberations)

THE COURT: Okay. I'm sorry; I asked Howard to hold them up for a minute because I forgot to ask you if you needed to see me at sidebar for anything.

MR. WOLK: No, Your Honor, that's what we talked about.

MS. FREY: Yes.

THE COURT: Yes? Well, we don't have to go to sidebar. Go ahead, you can be seated.

MS. FREY: The verdict sheet, we just saw this. I assume it was the one from before; I don't know. But, anyway, we would object to it not saying please enter the amount of damages, if any.

THE COURT: I gave you that verdict slip before I came out so that we wouldn't have this problem.

MR. WOLK: There's nothing wrong with the verdict slip, Your Honor. If they are going to find zero, they are going to find zero. If they are going to find something, they are going to find something.

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THE COURT: You have the verdict slip?

THE COURT CRIER: Yes.

THE COURT: Okay. Well, I have to change it, so they'll have to sit.

MS. FREY: Thank you.

THE COURT CRIER: The Court will take a brief recess.

(Short recess)

THE COURT CRIER: I will make copies and I will give it to them.

MR. ROBINSON: Thank you, sir.

(Jury deliberations)

THE COURT CRIER: Court's back in session.

(1:39 p.m.)

THE COURT CRIER: Jury coming out.
(Whereupon the jury entered the courtroom at 1:39 p.m.)

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THE COURT: All right. Please be seated, everyone.

THE COURT CRIER: All the parties are present, Your Honor. May I take the verdict?

THE COURT: Yes.

THE COURT CRIER: Will the foreperson please rise?

THE FOREPERSON: Yes.

THE COURT CRIER: Sir, has the jury reached a verdict?

THE FOREPERSON: Yes.

THE COURT CRIER: Have at least 10 out of 11 agreed?

THE FOREPERSON: Yes.

THE COURT CRIER: In the matter of Karen Pridgen, individually and as personal representative of the Estate of Lendon Pridgen, deceased, and as personal representative of the Estate of Anthony Cipparone, deceased, Denise Diggen, individually and as personal representative of the Estate of Daniel Diggen, deceased, and Tyler Johnson versus Avco Corporation and Avco Corporation on behalf of its Lycoming Engines Division, July Term 2001,

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No. 3838 and 4008, Question No. 1, please enter the amount of punitive damages, if any, you have found against Lycoming Engines.

THE FOREPERSON: 64 million dollars.

THE COURT: Okay.

THE COURT CRIER: May the verdict be recorded, Your Honor?

THE COURT: Any objection to the verdict being recorded?

MR. WOLK: No, Your Honor.

MR. ROBINSON: We'd like to poll the jury, Your Honor.

THE COURT CRIER: Okay. Poll the jury. Jurors, as I call your number, please state whether you agree with the verdict.

Juror No. 1, please rise. Do you agree with the verdict as stated by your foreperson?

THE JUROR: Yes.

THE COURT CRIER: Juror No. 2, please rise. Do you agree with the verdict as stated by your foreperson?

THE JUROR: Yes.

THE COURT CRIER: Juror No. 3, please rise. Do you agree with the verdict as stated

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1 by your foreperson?
 2 THE JUROR: Yes.
 3 THE COURT CRIER: Juror No. 4, please
 4 rise. Do you agree with the verdict as stated
 5 by the foreperson?
 6 THE JUROR: Yes.
 7 THE COURT CRIER: Juror No. 5, please
 8 rise. Do you agree with the verdict as stated
 9 by the foreperson?
 10 THE JUROR: Yes.
 11 THE COURT CRIER: Juror No. 6, please
 12 rise. Do you agree with the verdict as stated
 13 by the foreperson?
 14 THE JUROR: Yes.
 15 THE COURT CRIER: Juror No. 7, please
 16 rise. Do you agree with the verdict as stated
 17 by the foreperson?
 18 THE JUROR: Yes.
 19 THE COURT CRIER: Juror No. 8, please
 20 rise. Do you agree with the verdict as stated
 21 by the foreperson?
 22 THE JUROR: No.
 23 THE COURT CRIER: Juror No. 9, please
 24 rise. Do you agree with the verdict as stated
 25

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1 by the foreperson?
 2 THE JUROR: Yes.
 3 THE COURT CRIER: Juror No. 10, please
 4 rise. Do you agree with the verdict as stated
 5 by the foreperson?
 6 THE JUROR: Yes.
 7 THE COURT CRIER: And Juror No. 11, do
 8 you agree with the verdict as stated by the
 9 foreperson?
 10 THE JUROR: Yes.
 11 THE COURT CRIER: Your Honor, we have
 12 10 out of 11 that agree with the verdict. May
 13 the verdict be recorded?
 14 THE COURT: Yes.
 15 THE COURT CRIER: Jurors, harken to the
 16 verdict as the Court has recorded it and you
 17 say you find for the plaintiff in the amount of
 18 64 million dollars in punitive damages and 10
 19 out of 11 agree with the verdict, yes?
 20 THE JUROR: Yes.
 21 THE COURT: All right. Members of the
 22 jury, this does complete your service. I want
 23 to thank you very much for your service. You
 24 may now talk to anybody that you wish to about
 25

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1 the case. You, of course, don't have to talk
 2 to anybody about the case. It's your decision
 3 whether or not you want to do that.
 4 If you do choose to talk to anybody
 5 about the case, you can tell them anything that
 6 you thought about the case or the evidence in
 7 the case, your experience being a juror,
 8 whatever, but you may not quote a fellow
 9 juror's comments during confidential
 10 deliberations. Okay?
 11 So you can say anything you thought,
 12 but you can't quote another fellow juror. All
 13 right?
 14 All right. Thank you and you're
 15 excused.
 16 THE COURT CRIER: All rise.
 17 (Whereupon the jury exited the
 18 courtroom at 1:43 p.m.)
 19 MR. ROBINSON: Your Honor, is it all
 20 right to talk to the jurors?
 21 THE COURT: It's fine for the lawyers
 22 to talk to the jurors. That's perfectly
 23 permissible. That's up to the jurors if they
 24 want to talk to anybody.
 25

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1 All right. Counsel, I would just like
 2 to thank all four of you and your assistants
 3 for a very well-trying case. I know it was a
 4 hard-fought case but excellent lawyering on
 5 both sides, and that's always appreciated by
 6 the Court. So thank you all.
 7 MR. WOLK: Thank you, Your Honor.
 8 MR. ROBINSON: Thank you, Your Honor.
 9 MS. FREY: Your Honor, can I just put
 10 something on the record?
 11 THE COURT: Yes, you may. And off the
 12 record --
 13 (Discussion off the record)
 14 MS. FREY: Your Honor, just to make it
 15 clear, in case it has not been clear, one of
 16 the bases for our objections to the verdict on
 17 the misrepresentation exception is that the
 18 exception does not apply where the part that is
 19 defective is a replacement part.
 20 We also object to the award of punitive
 21 damages as excessive against the weight of the
 22 evidence and unconstitutional and reserve the
 23 right to fully brief the issue on Post-trial
 24 Motions.
 25

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THE COURT: Okay. All right. Thank
you all.

MR. WOLK: Thank you, Judge, very much.

THE COURT CRIER: This Court is
dismissed till further notice.

(Whereupon the hearing adjourned)

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I hereby certify that the proceedings
and evidence are contained fully and accurately
in the notes taken by me on the trial of the
above cause, and that this copy is a correct
transcript of the same.

EDNA M. DONOVON, RMR
Official Stenographer

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